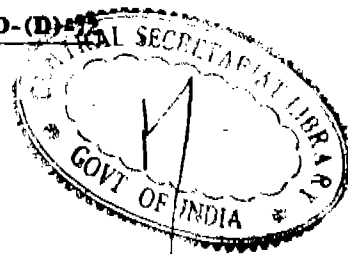




भारत का राजपत्र The Gazette of India



असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि वह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 20th April, 1978:—

BILL No. 10 OF 1978

A Bill to amend the Homoeopathy Central Council Act, 1973.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Homoeopathy Central Council (Amendment) Act, 1978. Short title.
2. In section 2 of the Homoeopathy Central Council Act, 1973, in sub-section (1),— Amendment of section 2.
 - (i) for clause (d), the following clause shall be substituted, namely:—
'(d) "Homoeopathy" means the system of medicine founded by Doctor Samuel Hahnemann.'; and
 - (ii) for clause (h), the following clause shall be substituted, namely:—
'(h) "regulation" means a regulation made under section 33 and in conformity with the "Organon of Medicine (Sixth Edition)" by Doctor Samuel Hahnemann.'

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to regulate the working of the Homoeopathy Central Council, in a way where the science of Homoeopathy escapes from injuries which have been inflicted over it so far, and maintain its purity.

The Joint Committee (1968) on the Indian Medicine and Homoeopathy Central Council Bill, in their Report have stated that "the Committee have given a very careful thought to this question. They came to the conclusion that the science of Homoeopathy being basically different from that of all the three systems of Indian medicines a composite Council for all the four systems would not help in the advancement of any of them. The Committee are, therefore, of the opinion that for the proper growth and development of all the four systems, there should be two separate and independent Central Councils—one for all the three Indian systems of medicines and the other for Homoeopathy."

Thus for the proper growth and development of Homoeopathy the tagging of the Biochemic remedies over Homoeopathy alone is destructive but in practice today people of India are getting a mixture of so many pathies, whereby Homoeopathy cannot escape its death and the people of India a health hazard.

Hence the Bill.

NEW DELHI;

DAYA RAM SHAKYA.

The 19th December, 1977.

BILL No. 29 OF 1978

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1978.

Short
title and
commen-
cement.

(2) It shall come into force from the date on which it receives the assent of the President.

2. In article 19 of the Constitution,—

Amend-
ment of
article 19.

(i) sub-clause (f) of clause (1) shall be omitted;

(ii) in clause (5), for the expression “(d), (e) and (f)”, the expression “(d) and (e)” shall be substituted.

Amend-
ment of
article 31.

3. In article 31 of the Constitution,—

- (i) clauses (3) and (4) shall be omitted;
- (ii) in clause (5), sub-clause (a) shall be omitted;
- (iii) clause (6) shall be omitted.

Amend-
ment of
article
31A.

4. In article 31A of the Constitution, in clause (1), the first proviso shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Fundamental rights mean natural rights. Natural right to air, water, right to live, right to personal liberty, right to work etc. can be deemed to be fundamental rights. But as regards the institution of right to property, the history reveals that the acquisition and amassing of wealth and property has been the source of exploitation. The exploitation of human labour by not paying fair return for it gives birth to wealth which steadily takes the form of capital. Property cannot be considered as a natural requirement of human being to live in this world.

The Janata Party had promised in its manifesto that it would abolish the fundamental right to property.

If we go through the history of independent India, it will transpire therefrom that the State has constantly been encroaching upon the civil liberties on the pretext of limiting the right to property. It is, therefore, expedient to delete the fundamental right to property from the Constitution as it will remove the apprehension of State interference in this matter.

Hence the Bill.

MADAN TIWARY.

NEW DELHI;

The 2nd February, 1978.

BILL No. 60 OF 1978

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1978.

(2) It shall come into force at once.

2. In article 84 of the Constitution, after clause (b), the following clause shall be inserted, namely:—

“(bb) is, in the case of a seat in the House of the People reserved for agriculturists, a person who ploughs the field with his own hands or who has means of livelihood only from the agricultural income and is a permanent resident of a village;”.

Short
title
and
commence-
ment.
Amend-
ment of
article
84.

Amend-
ment of
article
173.

3. In article 173 of the Constitution, after clause (b), the following clause shall be inserted, namely:—

“(bb) is, in the case of a seat in the Legislative Assembly reserved for agriculturists, a person who ploughs the field with his own hands or who has means of livelihood only from the agricultural income and is a permanent resident of a village;”.

Amend-
ment of
article
330.

4. In article 330 of the Constitution, in clause (1), after sub-clause (c), the following sub-clause shall be inserted, namely:—

“(d) the agriculturists, who plough the fields with their own hands or who have means of livelihood only from the agricultural income, to the extent of forty-five per cent. of the constituencies in the rural areas.”.

Amend-
ment of
article
332.

5. In article 332 of the Constitution, after clause (2), the following clause shall be inserted, namely:—

“(2A) Seats shall be reserved also for the agriculturists, who plough the fields with their own hands or who have means of livelihood only from the agricultural income, to the extent of forty-five per cent of the constituencies in the rural areas.”.

STATEMENT OF OBJECTS AND REASONS

It is always presumed that in a democracy power ultimately rests with the people, the electorate. Our country is mainly agriculture based. But, due to many disadvantages to the rural people, the agriculturists in true sense are not in a position to actively participate in the administration of our country as they are unable to get themselves elected to Lok Sabha/State Legislative Assemblies. The result is that real agriculturists do not get any representation in Parliament/State Legislatures. More resourceful persons of urban areas contest election from rural areas and get themselves elected. Though our country is mainly agriculture based, the entire administration is being dominated by the people other than the agriculturists.

In our Constitution there is no provision by which only the real agriculturists could contest the elections in a constituency of a rural area. Candidates other than the villagers are more resourceful and tactful in the election work and therefore get themselves elected. It is proposed that reservation of a fixed percentage of seats should be made for agriculturists in the House of the People and State Legislative Assemblies.

Hence this Bill.

RAJ KRISHNA DAWN.

NEW DELHI;

The 8th March, 1978.

BILL No. 61 OF 1978

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

- | | |
|--|---------------------------------------|
| 1. This Act may be called the Constitution (Amendment) Act, 1978. | Short title. |
| 2. In article 19 of the Constitution, sub-clause (f) of clause (1) shall be omitted. | Amendment of article 19. |
| 3. Articles 31, 31A and 31B of the Constitution shall be omitted. | Omission of articles 31, 31A and 31B. |
| 4. In article 31C of the Constitution, the words "or article 31" shall be omitted. | Amendment of article 31C. |
| 5. Ninth Schedule to the Constitution shall be omitted. | Omission of Ninth Schedule. |

STATEMENT OF OBJECTS AND REASONS

The main plank of the election manifesto of the Janata Party was that the Government have time and again resorted to the plea that fundamental rights and judicial processes have had to be curtailed in order to protect and further progressive social and economic measures and to prevent vested interests from thwarting them by resort to the Courts. In order to remove this suspicious *alibi* once and for all, it is proposed to delete property from Part III of the Constitution relating to fundamental rights. As a corollary to this, it also proposed to delete the Ninth Schedule to the Constitution.

Hence this Bill.

NEW DELHI;

Y. P. SHASTRI

The 9th March, 1978.

BILL No. 66 OF 1978

A Bill to provide for the creation of Trust Corporations for further development of enterprises and for matters connected therewith.

Enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:

1. (1) This Act may be called the Janata Trusteeship Act, 1978.

(2) It shall extend to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act unless the context otherwise requires,—

(a) "business" means and includes industries, plantations, banks, trade, transport or any other activity carried on for profit;

(b) "company" means any public or private limited company registered under the Companies Act, 1956, and having a subscribed capital of more than a million rupees;

Short title,
extent
and com-
mence-
ment.

1. Mini-
mum

(c) "Panchayat" means the organ of management of a trust Corporation constituted in the manner provided in this Act.

(d) "Trust Corporation" means any public or private limited company which has declared itself a Trust Corporation under this Act.

Provi-
sions to
have
effect
notwith-
standing
any law
in force.

3. The Provisions of this Act shall have effect notwithstanding anything to the contrary contained in any law for the time being in force.

Forma-
tion of
a Trust
Corpora-
tion.

4. A company may, by a resolution passed by a majority of shareholders present and voting at its general meeting, declare itself to be a Trust Corporation.

Informa-
tion to
Registrar.

5. Immediately after the passing of the resolution referred to in section 4, the managing agent or the manager or the secretary of the company shall notify the same to the Registrar of Joint Stock Companies in whose jurisdiction the head office of the Company is situated.

Interim
manage-
ment.

6. The Registrar, on receiving such notice, shall direct the managing agent, the manager or the secretary, as the case may be, to carry on the day to day business of the Company as an interim managing trustee.

Panchayat
of
Trustees.

7. The Registrar shall, as soon as possible, arrange to take stock of the assets and liabilities of the Company and shall constitute a Panchayat of Trustees consisting be not more than sixteen members, in the following manner, to supervise, control and direct the managing trustee:—

(a) not more than five trustees to be nominated by the shareholders of the company at its general meeting;

(b) not more than five trustees to be elected by the trade union of the employees of the company of whom at least one shall be from the managerial staff, one from the jobbers and the rest from any section of the employees;

(c) five trustees, to be nominated by the Registrar of Joint Stock Companies, as experts, one each from the Planning Commission, Ministry of Industry, Trade and Commerce, Department of Company Law, Department of Labour of the State Government concerned and a nominee of the Municipal Committee or Corporation of the locality in which the Head Office of the Company is situated;

(d) the interim managing trustee shall be an *ex-officio* member of the Panchayat.

Right of
workers
to vote.

8. Every worker who has been in the employment of the company for not less than six months shall have the right to vote in the election of the trustees.

9. No representative of workers shall be included in the Panchayat unless he belongs to a united trade union which makes an active demand for responsible participation in the management of the Trust Corporation.

Qualifica-
tion for
election
as
trustees.

10. The Panchayat shall decide all major questions relating to the management of the business of the Trust Corporation and, in particular, frame rules for the efficient management of the corporation, approve its annual production plans and annual accounts, construction and development programme, purchases, sales, loan, credits, wages, salaries, bonus to employees and interest, if any, to shareholders.

Functions
of Pan-
chayat.

11. The profits of the Trust Corporation after due provision being made for depreciation and provident funds, shall be credited to the income-tax folio of the Ministry of Finance, Government of India for being allocated to the different States according to the recommendations of the Finance Commission.

Profits
to be
credited
to Gov-
ernment
of India.

12. The employees of the Trust Corporation shall not demand any rise in wages which is not commensurate with the earnings of an average villager or the uniform scales of wages determined by the Ministry of Labour, Employment and Rehabilitation of the Government of India.

Wages
of
emplo-
yees.

13. The Panchayat may sanction payment of general bonus or individual merit bonus for surpassing the annual production targets fixed for the Corporation.

Payment
of bonus.

14. Works Committees of employees shall be formed in every department of the Trust Corporation and they shall be entrusted with the job of explaining the decisions the Panchayat to the employees, maintenance of the discipline and execution of welfare schemes of the Trust Corporation.

Works
com-
mittees.

15. The managing agent, the manager or the secretary of the company, which has declared itself to be a Trust Corporation, shall become the *ex-officio* managing trustee of the corporation.

Manag-
ing
trustee.

16. If the managing agents are a company or a firm such company or firm may nominate the first managing trustee of the Trust Corporation.

Manag-
ing
trustee
to be
nomi-
nated in
certain
cases.

17. The first managing trustee shall continue in office for five years or till he attains the age of sixty years, whichever is longer.

Term of
office of
manag-
ing
trustee.

18. The managing trustee shall be liable to be removed from office by the Panchayat for a criminal breach of trust.

Removal
of manag-
ing
trustee.

Remuneration of managing trustee.

19. (1) The remuneration of the first managing trustee shall be fixed by a contract between him and the Panchayat.

(2) In case of a dispute regarding the remuneration of the first managing trustee, the Registrar of Joint Stock companies shall fix the same after taking into consideration the standard of life to which the first managing trustee is accustomed.

Successor of managing trustee.

20. The first managing trustee may recommend a successor to his office but the final appointment shall be made by the Panchayat.

Salaries.

21. The salaries of subsequent managing trustees and other supervisory or technical staff shall be fixed by the Panchayat.

Chairman of Panchayat.

22. The Panchayat shall elect a Chairman from among its members, who shall summon its meetings from time to time and shall preside over the same.

Panchayat to act through managing trustee.

23. The Panchayat shall supervise the work of the managing trustee, examine his reports and give him instructions in regard to the day to day administration as also the policies and programme of the Corporation.

Control over the employees.

24. All employees of the Trust Corporation shall be subject to the authority of the managing trustee in performing their duties.

Power of managing trustee.

25. The managing trustee shall be empowered to impose disciplinary penalties on defaulting employees.

Audit.

26. The accounts of the Trust Corporation shall be audited by the Comptroller and Auditor General of India.

Scrutiny of accounts.

27. Statements of income and expenditure, balance-sheets and statements of assets and liabilities shall be placed before a joint annual general meeting of all employees of the Trust Corporation and the shareholders of the company.

Government to acquire Trust Corporation in certain cases.

28. The Registrar of Joint Stock Companies, on being satisfied on the basis of auditor's report that the affairs of a Trust Corporation are being conducted in a manner harmful to the interests of the community, may recommend to the Central Government to take over the assets of the corporation and dispose them of in any manner it deems fit.

Coordination with national plans.

29. The co-ordination of the industrial or commercial activities of the Trust Corporation with the national plans for economic development shall be the responsibility of the representative of the Planning Commission on the Panchayat, whose decisions in this regard shall be final.

65 of 1951.

30. Any industry or undertaking whose management has been taken over by the Government under the Industries (Development and Regulation) Act, 1951, and entrusted to the Registrar of Joint Stock Companies, may be treated as a trust corporation for the purposes of this Act.

Acquired under-takings.

31. New Trust Corporations may be floated *ab initio* by an individual entrepreneur investing fifty per cent of the subscribed capital, provided that the Central or the State Government concerned agreed to contribute the other half; so, however, that the total equity capital does not exceed twenty lakh rupees.

New Trust Corporations.

32. A Trust Corporation formed under section 31 shall be subject to the same rules as are applicable to any other Trust Corporation formed under this Act.

Application of rules.

33. The terms agreed to between the managing trustee of a corporation formed under section 31 and the Government in respect of remuneration shall be valid during the active lifetime of the original managing trustee.

Managing trustee of a new corporation.

34. (1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act:

Power to make rules.

Provided that the rules made hereunder shall not make any discrimination between companies owned or managed by Indian and foreign nationals.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

“Enjoy thy wealth by renouncing it” (*ten tyaktena Bhunjithat*) is *mantram* of the Upanisad. “All property belongs to God”—says the Ramayana (*Sampati Sab Raghupati Ke Ahi*). True to this spirit of Indian culture, Mahatma Gandhi had put forward before India the concept of social obligation of business, known as “Trusteeship”. Ours is a Socialist Republic but Indian Socialism must be evolved in accordance with the nation’s innate culture and traditions and not merely a “carbon copy” of the West. Professor E. F. Schumacher has rightly said: “If India should be able to move along the path of *Equality through Trusteeship*, she could become a beacon to the world”. *Industrial Common Ownership Act*, 1976 passed by the British Parliament merely vindicates the stand of the Mahatma. Late Dr. Ram Manohar Lohia had tried to introduce “The Indian Trusteeship Bill” in 1967 but the sanction to introduce the Bill was withheld at the first instance and when it was assured of giving active consideration, it was too late and Dr. Lohia died in October, 1967. Thanks to Shri George Fernandes, who succeeded in introducing the Bill in 1969 during Gandhi Centenary Year, as a fitting memorial to the Father of the Nation. But it could not become a law. The Janata Government is dedicated to the values and ideals of Gandhiji and hence the enactment of this legislation will be a tribute to Government and the people and also to the Father of the Nation.

Under State-regulated trusteeship, the individual will be free to make as much money as he likes, but will not be free to hold or use his wealth for selfish satisfaction or in disregard of the interests of society, i.e. they will be allowed to become statutory trustees. The Bill seeks to provide such an opportunity to the owners of large companies and proposes necessary provisions for the democratic management of the resultant trust corporations. The provisions of the Bill are intended to usher peacefully an era of a socialist society, which will be built not solely on monetary incentives but on ideas of service to society. Whether it is private capitalistic or state-capitalistic forms, they concentrate power in few hands and reserve the privilege of creativity and production for those already rich or powerful—multinationals, tycoons, bureaucrats, commissars, and the like. The provisions of the Bill are expected to promote increased productivity by giving the workers a sense of full and intelligent participation in the process of production, purchases, sales and investment of the enterprise.

The Bill is not a compulsory but a permissive measure enabling the present owners of large companies to transform their existing titles based on absolute rights into trust ownership.

NEW DELHI;

RAMJI SINGH

The 1st November, 1977.

**PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274
OF THE CONSTITUTION OF INDIA**

[Copy of letter No. 7/45/77-CL.V, dated the 13th March, 1978 from Shri Shanti Bhushan, Minister of Law, Justice and Company Affairs to the Secretary, Lok Sabha.]

The President, having been informed of the subject matter of the Janata Trusteeship Bill by Dr. Ramji Singh, Member, Lok Sabha, recommends under clause (1) of article 117 and clause (1) of article 274 of the Constitution the introduction of the Bill and under clause (3) of article 117 of the Constitution the consideration of the said Bill by the Lok Sabha.

BILL No. 63 OF 1978

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1978.

Short
title and
commen-
cement.

(2) It shall come into force from the date on which it receives the assent of the President.

2. In article 19 of the Constitution,—

Amend-
ment of
article 19.

(i) sub-clause (f) of clause (1) shall be omitted;

(ii) in clause (5), for the expression “(d), (e) and (f)”, the expression “(d) and (e)” shall be substituted.

Amend-
ment of
article 31.

3. In article 31 of the Constitution,—

- (i) clauses (2B), (3) and (4) shall be omitted;
- (ii) in clause (5), sub-clause (a) shall be omitted;
- (iii) clause (6) shall be omitted.

Amend-
ment of
article
31A

4. In article 31A of the Constitution, in clause (1), the first proviso shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Fundamental rights mean natural rights. Right to breathe air, right to drink water, right to live, right to personal liberty, right to work etc. can be deemed to be fundamental rights. But as regards the institution of right to property, the history reveals that the acquisition and amassing of wealth and property has been the source of exploitation. The exploitation of human labour by not paying fair return for it gives birth to wealth which steadily takes the form of capital. Property cannot be considered as a natural requirement of human being to live in this world.

The Janata Party had promised in its manifesto that it would abolish the fundamental right to property.

If we go through the history of independent India, it will transpire therefrom that the State has constantly been encroaching upon the civil liberties on the pretext of limiting the right to property. It is, therefore, expedient to delete the fundamental right to property from the Constitution as it will remove the apprehension of State interference in this matter.

Hence the Bill.

SHARAD YADAV.

NEW DELHI;

The 16th March, 1978.

BILL NO. 49 OF 1978

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Twenty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1978. Short title.
2. In article 352 of the Constitution,—Amend-
ment of
article
352.
 - (a) in clause (1), for the words “internal disturbance”, the words “armed rebellion” shall be substituted;
 - (b) in clause (2),—
 - (i) in sub-clause (c), for the words “two months”, the words “one month” shall be substituted;
 - (ii) in the proviso,—
 - (a) for the words “two months”, the words “one month” shall be substituted;

(b) for the words "thirty days" wherever they occur, the words "fourteen days" shall be substituted;

(iii) after the proviso, the following second proviso shall be inserted, namely:—

"Provided further that a resolution referred to in sub-clause (c) of clause (2) shall be adopted in each House by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting.";

(c) in clause (3), the words "or by internal disturbance" and the words "or disturbance" shall be omitted;

(d) in clause (4),—

(i) for the words "internal disturbance" occurring for the first time, the words "armed rebellion" shall be substituted;

(ii) the words "or internal disturbance" occurring after the words "imminent danger of war or external aggression" shall be omitted;

(e) for clause (5), the following clause shall be substituted, namely:—

"(5) A Proclamation of Emergency, subsequent to its approval by both Houses of Parliament, shall be laid before each House of Parliament at intervals of not more than six months from the date of the passing of the second of the resolutions approving the Proclamation under sub-clause (c) of clause (2), and the Proclamation shall cease to operate unless it is on each occasion approved in the manner set forth in the second proviso to clause (2).";

(f) after clause (5), the following new clause shall be inserted, namely:—

"(6) A Proclamation issued under clause (1) shall be revoked within fifteen days after the termination of war or external aggression or armed rebellion."

3. In article 356 of the Constitution,—

(a) in clause (3),—

(i) for the words "resolutions of both Houses of Parliament", the words "a resolution passed by each House of Parliament by a majority of the total membership of that House and by a majority of not less than two-thirds of the members of that House present and voting" shall be substituted;

(ii) for the words "two months" wherever they occur, the words "one month" shall be substituted;

(iii) in the proviso, for the words "thirty days" wherever they occur, the words "fifteen days" shall be substituted;

(b) in clause (4),—

(i) for the words "one year" wherever they occur, the words "three months" shall be substituted;

(ii) in the first proviso, for the words "three years", the words "six months" shall be substituted;

(iii) in the second proviso, for the words "thirty days" wherever they occur, the words "fifteen days" shall be substituted;

(c) clause (5) shall be omitted.

4. In article 358 of the Constitution, the following second proviso shall be inserted, namely:—

Amend-
ment of
article
358.

"Provided further that the State shall not make any law which takes away or abridges the rights conferred by article 21."

5. In article 359 of the Constitution, in clause (1), the following proviso shall be inserted, namely:—

Amend-
ment of
article
359.

"Provided that the right to move any Court for the enforcement of the rights conferred by article 21 shall not be suspended."

6. Clause (5) of article 360 of the Constitution shall be omitted.

Amend-
ment of
article
360.

STATEMENT OF OBJECTS AND REASONS

During the dark days of tyranny and terror from June 26, 1975 till March 21, 1977, the powers conferred by the Emergency provisions of the Constitution were grossly misused by the former Prime Minister and her Government with a view to subverting our democratic institutions, and establishing a vile dictatorship. The Bill seeks to provide adequate safeguards against such misuse by suitably amending articles 352, 358 and 359; articles 356 and 360 have also been sought to be amended so as to make the Bill a comprehensive measure to amend the Emergency Provisions in Part XVIII of the Constitution.

NEW DELHI;
The 17th March, 1978.

HARI VISHNU KAMATH

AVTAR SINGH RIKHY,
Secretary.